

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MB Docket No 03-132
Table of Allotments,)	RM-10709
FM Broadcast Stations.)	
(Springfield, Tennessee, Oak Grove and Trenton,)	
Kentucky) ¹)	

REPORT AND ORDER
(Proceeding Terminated)

Adopted: December 3, 2003**Released: December 8, 2003**

By the Assistant Chief, Audio Division:

1 The Audio Division considers herein a *Notice of Proposed Rule Making* ("Notice")² filed by Saga Communications of Tuckesse, LLC ("Saga Communications"), licensee of Station WJOI-FM, Channel 232A, Springfield, Tennessee, which proposed the reallocation of Channel 232A from Springfield, Tennessee to Oak Grove, Kentucky, as that community's first local aural transmission service, and the modification of its license for Station WJOI-FM accordingly. Saga Communications filed a Counterproposal in this proceeding.³ No other comments or counterproposals were received in response to the *Notice* in this proceeding.

2 Saga Communications filed its original proposal pursuant to Section 1420(i) of the Commission's Rules, which permits the modification of a station's license to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest in the proposed allotment.⁴ When considering a reallocation proposal, a comparison is made between the existing allotment and the proposed allotment to determine whether the reallocation would result in a

¹ Trenton, Kentucky has been added to the caption

² See *Springfield, Tennessee and Oak Grove, Kentucky*, 18 FCC Rcd 11403 (MB 2003)

³ Saga Communications filed a Counterproposal requesting the reallocation of Channel 232A to Trenton, Kentucky, in lieu of Oak Grove, Kentucky. This revised proposal was necessary due to the fact that the modification of its Station WJOI-FM license to specify Oak Grove would contravene the Commission's new multiple ownership rules. See *In the Matter of 2002 Biennial Regulatory Review - Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996* ("Ownership Report and Order"), 18 FCC Rcd 13620 (2003). In view of this "unforeseen circumstance," we accepted the Counterproposal into this proceeding. See *Taccoa, Sugar Hill and Lawrenceville, Georgia*, 16 FCC Rcd 21191(2001). However, the United States Court of Appeals for the Third Circuit issued an *Order* staying the effectiveness of the new multiple ownership rules. *Prometheus Radio Project v. FCC*, No. 03-3388 (3rd Cir. Sept. 3, 2003). For this reason, Saga Communications subsequently withdrew its revised Counterproposal and requested reinstatement of its original proposal for Oak Grove.

⁴ See *Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), recon. granted in part 5 FCC Rcd 7394 (1990).

preferential arrangement of allotments based upon the FM Allotment priorities.⁵ Saga Communications requested the reallocation of Channel 232A to Oak Grove, Kentucky, from Springfield, Tennessee, and modification of the authorization for Station WJOI-FM to specify operation on Channel 232A at Oak Grove, as a first local service preference under priority (3) of the allotment priorities. Based upon the FM Allotment priorities, the reallocation of Channel 232A to Oak Grove, Kentucky results in a preferential arrangement of allotments since the existing allotment of Channel 232A at Springfield triggers a priority (4) other public interest matters because Springfield currently receives local service from AM Stations WSGI and WJQY.

3 We have determined that the public interest would be served by reallocating Channel 232A to Oak Grove, Kentucky, since it would provide the community with its first local aural transmission service, without depriving Springfield, Tennessee of its sole local service. Channel 232A can be allotted to Oak Grove, Kentucky, in compliance with the minimum distance separation requirements of the Commission's Rules, provided there is a site restriction of 9.3 kilometers (5.8 miles) east of Oak Grove, Kentucky.⁶ In addition to providing a first local service to Oak Grove, this reallocation will result in a net gain in service to approximately 186,850 persons, while resulting in a loss of service to 87,008 persons. The loss area is well-served given that there are 2 AM and 9 FM stations that will provide coverage to that area.⁷ Our engineering analysis indicates that the proposed allotment at Oak Grove will cover 90.4% percent of the Clarksville, TN-Kentucky Urbanized Area. As discussed in the *Notice*, Saga Communications provided a *Tuck* showing that demonstrated that Oak Grove is sufficiently independent of the Clarksville Urbanized Area pursuant to the criteria set forth in *Tuck-KFRC*, to be entitled to consideration as a first local service.⁸ Oak Grove, with a 2000 U.S. Census population of 7,064 persons, is approximately 18 kilometers (11 miles) north of Clarksville. Oak Grove has an elected mayor, a six-member city council, a city attorney and a city clerk. Oak Grove has its own water and sewer systems, police department, volunteer fire department, volunteer ambulance service, chamber of commerce, cable television system, health care professionals, and health care facility. It has its own local phone directory, post office, and zip code (42262). There are churches and commercial businesses. Schools are provided by the Christian County Board of Education. In accordance with Section 1.420(i) of the Commission's Rules, we will modify Station WJOI-FM's license to specify operation on Channel 232A at Oak Grove, Kentucky, as its new community of license.

4 Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective January 23, 2004, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the communities listed below, as follows:

Community	Channel Number
Oak Grove, Kentucky	232A
Springfield, Tennessee	-----

⁵ The FM Allotment priorities are (1) First full-time aural service (2) Second full-time aural service. (3) First local service (4) Other public interest matters. [Co-equal weight is given to priorities (2) and (3)], See *Revision of FM Assignment Policies and Procedures*, 90 FCC Rcd 88, 91 (1988).

⁶ The reference coordinates for Channel 232A at Oak Grove are 36-38-23 North Latitude and 87-20-39 West Longitude.

⁷ See *Douglas, Tifton, and Unionville, GA*, 10 FCC Rcd 7706, 7707 (MMB 1995) and *Wray and Otis, Colorado*, 13 FCC Rcd 2612 (MMB 1998).

⁸ See *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1998) ("*Tuck*") and *RKO General*, 5 FCC Rcd 3222 (1990) ("*KFRC*").

5. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the authorization of Saga Communications of Tuckessee, LLC for Station WJOI-FM, Channel 232A, Springfield, Tennessee, IS MODIFIED to specify operation on Channel 232A at Oak Grove, Kentucky, subject to the following conditions:

(a) Within 90 days of the effective date of the *Order*, the licensee of Station WJOI-FM shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility,

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620; and

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules, unless the proposed facilities are categorically excluded from environmental processing

6 Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), any party seeking a change in community of license of an FM or television allotment or an upgrade of an existing FM allotment, IF THE REQUEST IS GRANTED, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Saga Communications of Tuckessee, LLC, licensee of Station WJOI-FM, Springfield, Tennessee, is required to submit a rulemaking fee in addition to the fee required for the application to effectuate the change in community of license for Station WJOI-FM, Channel 232A, Springfield, Tennessee, to Oak Grove, Kentucky.

7. IT IS FURTHER ORDERED, That the counterproposal filed by Saga Communications of Tuckessee, LLC in this proceeding IS HEREBY DISMISSED.

8. IT IS FURTHER ORDERED, That the Motion to File the Request to Withdraw Uncontested Counterproposal and Reinstate Original Proposal filed by Saga Communications of Tuckessee, LLC in this proceeding IS HEREBY GRANTED

9 IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

10. For further information concerning this proceeding, contact Rolanda F. Smith, Media Bureau,
(202) 418-2180

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief, Audio Division
Media Bureau